

REMARKS

By the foregoing Amendment, Claims 1, 23 and 25 are amended. Entry of the Amendment, and favorable consideration thereof, is earnestly requested. Applicant believes that entry of the Amendment is proper, as it essentially incorporates a definition for "conventional" gum base from the Specification into the Claims. Claims 2, 15, 21 and 22 having been previously cancelled, Claims 1, 3-14, 16-20 and 23-34 are currently pending.

Claim Rejections - 35 USC § 112

Claims 1 and 25 were rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention.

Applicant asks the Examiner to reconsider these rejections in view of the above Amendments. Specifically, the term "conventional gum base" has been replaced with the well-known definition thereof (i.e., consisting essentially of water-insoluble gum base parts, which have not been mixed with flavors or active ingredients). A similar limitation has been added to Claim 23.

Claim Rejections - 35 USC § 102

Claims 1, 3-6, 8-11, 14 and 20 were rejected under 35 U.S.C. 102(b) as being anticipated by Yang (EP 0 221 850). Applicant respectfully asks the Examiner to reconsider these rejections in view of the above Amendments and the following Remarks.

Present claim 1 reads as follows:

1. Compressed chewing gum tablet comprising:
 - a chewing gum center;
 - said gum center comprising a compression of gum base granules and chewing gum additives;
 - said chewing gum additives comprising sweeteners and flavors;
 - at least a first part of said gum base granules comprising flavor or active ingredients incorporated in the gum base; and
 - at least a second part of said gum base granules being granules consisting essentially of water-insoluble gum base parts, which granules have not been mixed with flavors or active ingredients.

As disclosed in Claims 1, 23 and 25 the pending application relates to a compressed chewing gum comprising different parts of gum granules. The different granulates may be provided by a multi-string process, which enables differentiated treatment of separate parts of a chewing gum to obtain divergent granules. Hereby it is possible to adjust and control, e.g., the flavor release. See, for example, page 3, lines 13 -18 and 26 - 31.

Yang discloses a flavored tableted chewing gum. The Examiner refers to col. 11, lines 49-65 to indicate that Yang teaches that a tablet may be made by blending two or more granulations before compressing, wherein at least one contains a flavorant.

However, Applicant would like to point the attention of the Examiner to the fact that even though col. 11, lines 49-65 do speak of two or more granulations before compressing, first of all nothing is stated concerning the content of gum base in these granulations. The example given is a gum granulation containing sorbitol and aspartame, but no flavorant, which is blended with a second granulation containing an encapsulated flavorant. Whether this second granulation comprises gum base is unknown.

However, even if both granulations comprise gum base, the first granulation certainly does comprise sorbitol and aspartame and the second granulation certainly comprise an encapsulated flavorant. Consequently, Yang does not disclose (see present claim 1) at least two parts of gum base granules, of which at least a part of said gum base granules comprises granules consisting essentially of water-insoluble gum base parts, which granules have not been mixed with flavors or active ingredients.

It is consequently respectfully submitted that Claims 1, 23 and 25 are novel over Yang.

Furthermore it is noted that apart from col. 11, lines 49-65, the claims, examples and description of Yang are very consistent in describing a chewing gum tablets produced through the steps of mixing, solidifying, granulating and compressing; i.e. all ingredients desired in the chewing gum are mixed together in the first step and the granulating step will inevitably create substantially uniform granules. Consequently, mixing of different granules is in no way in focus in Yang.

Mixing of different granules is not even mentioned in Athanikar et al. (U.S. Patent No. 6,322,828), and it is therefore respectfully submitted that Claims 1, 23 and 25 are novel over Athanikar et al. as well.

Consequently it is respectfully submitted that the claimed invention as stated in Claims 1, 23 and 25 is novel with regard to the cited prior art.

Claim Rejections - 35 USC § 103

Claims 7, 12, 13, 16-19 and 25-34 were rejected under 35 U.S.C. 103(a) as being unpatentable over Yang, and Claims 23 and 24 were rejected under 35 U.S.C. 103(a) as being unpatentable over Athanikar et al. Applicant respectfully

asks the Examiner to reconsider these rejections in view of the above Amendments and the following Remarks.

According to the present invention, it is desired to improve the process of manufacturing compressed chewing gum. By using a multi-string process according to present Claim 1, where one of the strings may comprise a product specifier (i.e., gum base granules comprising flavor or active ingredients incorporated in the gum base), with the second string comprising a universal base mix (i.e., gum base granules being granules consisting essentially of water-insoluble gum base parts, which granules have not been mixed with flavors or active ingredients), that may be applied for every two string process, a number of advantages are obtained.

A first advantage is that the universal gum base mix (i.e., the gum base granules being granules consisting essentially of water-insoluble gum base parts, which granules have not been mixed with flavors or active ingredients), due to the fact that it only contains basic ingredients, is relatively stable and may be manufactured and stored relatively robust to environmental influences, such as humidity and temperature, when compared to the resulting pre-mix granulate comprising, e.g., incorporated flavor and active ingredients.

A second advantage is that the universal gum base mix (i.e., the gum base granules being granules consisting essentially of water-insoluble gum base parts, which granules have not been mixed with flavors or active ingredients), due to the fact that it only contains basic ingredients, may gain approval from the authorities once and for all for use in confectionery products.

A third advantage is that a shift to another product may easily be carried out by simply shifting the premix to include, e.g., another flavor or active ingredient.

A fourth advantage is that an adjustment of the chew profile, e.g., consistence and flavor release of the final chewing gum, can easily be carried out by balancing the amounts of the pre-mix and the granules consisting essentially of water-insoluble gum base parts, which granules have not been mixed with flavors or active ingredients.

In other words, the use of a string of granules consisting essentially of water-insoluble gum base parts, which granules have not been mixed with flavors or active ingredients, to be mixed with at least one other string of granules facilitates the production procedure in a number of ways.

As mentioned above, Athanikar et al. does not mention a multi-string process at all. Yang slightly mentions the mix of two kinds of granules in col. 11,

lines 49-65; however, none of these two kinds are granules consisting essentially of water-insoluble gum base parts, which granules have not been mixed with flavors or active ingredients, which granules are much more stable and robust than if water-soluble ingredients are mixed with them. Furthermore, apart from the slight mentioning in Yang, the claims, examples and description are very consistent in describing chewing gum tablets from substantially uniform granules. Consequently, starting from either Yang or Athanikar et al. the skilled person would find no incentive to establish one feeding line of granules consisting essentially of water-insoluble gum base parts, which granules have not been mixed with flavors or active ingredients, and thereby obtain the advantages mentioned here above.

According to the present invention, this has been achieved by establishing a "hybrid chewing gum" according to Claims 1, 23 and 25, comprising one part having flavor or active ingredients incorporated in the gum base granules and a second part formed from granules consisting essentially of water-insoluble gum base parts, which granules have not been mixed with flavors or active ingredients.

It is therefore respectfully submitted that Claims 1, 23 and 25 are non-obvious.

Reply to Examiner's Response to Arguments

Applicant believes that most of the issues raised by the Examiner in the Response to Arguments section have been addressed by the above Amendments and modified Arguments. However, Applicant addresses a few issues below.

With respect to paragraph 41, the Examiner questions the advantages of the "universal gum base mix" referred to in the previously filed Response. Applicant has clarified its arguments presented above in this regard. As but one example of an advantage, Applicant would like to highlight the stability issue.

As discussed above, and as one skilled in the art would readily appreciate, granules consisting essentially of water-insoluble gum base parts, which granules have not been mixed with flavors or active ingredients, are much more stable than granules that include water soluble parts (such as flavors, sweeteners, active ingredients, etc.). Such water soluble parts tend to degrade much faster than water-insoluble gum base parts, due, for example, to humidity in the ambient air. Also, many active ingredients tend to have a relatively short shelf-life, which is why they often have a relatively short expiration date.

Thus, one of the benefits of the present invention, with its two-string process, is that large batches of the granules consisting essentially of water-insoluble gum base parts, which granules have not been mixed with flavors or

active ingredients, can be created and stored for long periods of time without significant fear of degradation. These stored granules can be used to create many different types of chewing gums by mixing them, as needed, with different types of additional gum base granules comprising flavor or active ingredients incorporated in the gum base (which types of granules are typically created in smaller batches only as needed, due to the afore-mentioned degradation issues). This is a significant advantage over the cited prior art.

With respect to paragraph 42 of the outstanding Office Action, the Examiner states:

No authority is going to approve a composition comprising a "conventional" gum base, or the "convention" gum base itself, where no ingredients in the "conventional" gum base are defined any further than "natural resins" or "wax".

Applicant does not dispute this statement. However, Applicant points to the difference between an application for FDA-approval and the application for a patent. For gaining FDA-approval obviously the fully detailed list of ingredients must be provided.

However, a patent claim describing a chewing gum manufactured in a novel way which may enable companies to obtain FDA-approvals relatively faster, should be checked for non-obviousness regardless of whether a fully detailed list

of ingredients is specified in the claims. The important thing is whether the relevant parts of the invention are described in the claims.

With the present invention, the inventors have discovered that for a mixture of "basic" ingredients, conventionally known in gum bases (i.e., granules consisting essentially of water-insoluble gum base parts, which granules have not been mixed with flavors or active ingredients), approval by the relevant authorities may be relatively faster to obtain; and that such mixture of basic ingredients may be used for a chewing gum in combination with at least one other type of granules with flavors or active ingredients.

More specifically, even though the same "basic" granules (i.e., granules consisting essentially of water-insoluble gum base parts, which granules have not been mixed with flavors or active ingredients), may be used in formulations to make many different chewing gums by varying the composition of the other granules (as discussed above), those "basic" granules would only need to be closely examined by the authorities once, rather than every time they are to be incorporated into different chewing gums. And even this first time, they do not need to be particularly closely examined, since they consist essentially of water-insoluble gum base parts, which granules have not been mixed with flavors or active ingredients. It is generally water soluble parts (such as flavors, sweeteners,

active ingredients, etc.) that require closer scrutiny by the relevant authorities, since it is these water soluble parts that are actually being ingested.

This is what is important in the present invention and therefore what is in the claim.

Double Patenting Rejections

It is noted that all claims were provisionally rejected under a theory of obviousness-type double patenting. As these rejections are provisional, Applicant will consider filing an appropriate Terminal Disclaimer, if appropriate, once the claims are otherwise determined to be in condition for allowance.

For the foregoing reasons, Applicant respectfully submits that all pending claims, namely Claims 1, 3-14, 16-20 and 23-34, are patentable over the references of record, and earnestly solicits allowance of the same.

Respectfully submitted,

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/Richard J. Basile/
Richard J. Basile, Registration No. 40,501
Todd M. Oberdick, Registration No. 44,268
Attorneys for Applicants
ST.ONGE STEWARD JOHNSTON & REENS LLC
986 Bedford Street
Stamford, CT 06905-5619
203 324-6155